

SENATE BILL 738

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By: **Senators Jacobs, Brinkley, Colburn, Glassman, Haines, Harris, Kittleman, Mooney, Munson, Pipkin, Reilly, Simonaire, and Stoltzfus**
Introduced and read first time: February 10, 2010
Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Public Charter School Facilities – Financing**

3 FOR the purpose of establishing the Public Charter School Facilities Debt Reserve
4 Fund for certain purposes; providing for the uses and administration of the
5 Fund; providing for certain payments from the Fund in certain circumstances;
6 requiring the State Board of Education to adopt certain regulations; requiring
7 the State Department of Education to examine and provide a report on the
8 feasibility of and the mechanism for providing per-pupil facilities aid for public
9 charter schools; providing that certain security or payments are not a debt or
10 obligation of the State or any political subdivision of the State; providing that
11 the State is not required to make certain payments except from the Fund;
12 defining certain terms; and generally relating to the financing of public charter
13 school facilities.

14 BY adding to
15 Article – Education
16 Section 9–111
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2009 Supplement)

19 Preamble

20 WHEREAS, One of the selection criteria for the American Recovery and
21 Reinvestment Act “Race to the Top” State Incentive Grant Program is the extent to
22 which the State provides charter schools with facilities funding and assistance with
23 facilities acquisition; and

24 WHEREAS, Some of the barriers public charter schools experience in obtaining
25 financing for the construction, purchase, and renovation of public charter school

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 facilities is a lack of collateral and an inability to provide a debt service guarantee that
2 would encourage lenders to offer financing to public charter schools;

3 WHEREAS, Under current law, a public charter school in Maryland may apply
4 to the Maryland Health and Higher Educational Facilities Authority established
5 under Title 10, Subtitle 3 of the Economic Development Article for assistance in
6 financing the construction, purchase, and renovation of public charter school facilities
7 with bonds issued by the Authority on behalf of the public charter school; however, the
8 Authority is not authorized to provide a debt service guarantee; and

9 WHEREAS, The creation of a debt reserve fund for public charter schools will
10 likely encourage lenders to offer financing for public charter school facilities; now,
11 therefore,

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Education**

15 **9–111.**

16 **(A) IN THIS SECTION, “FUND” MEANS THE PUBLIC CHARTER SCHOOL**
17 **FACILITIES DEBT RESERVE FUND.**

18 **(B) (1) THERE IS A PUBLIC CHARTER SCHOOL FACILITIES DEBT**
19 **RESERVE FUND.**

20 **(2) THE PURPOSE OF THE FUND IS TO ENHANCE THE ABILITY OF**
21 **PUBLIC CHARTER SCHOOLS TO FINANCE THE CONSTRUCTION, PURCHASE, AND**
22 **RENOVATION OF PUBLIC CHARTER SCHOOL FACILITIES BY PROVIDING:**

23 **(I) LEVERAGE TO ENCOURAGE FINANCIAL INSTITUTIONS**
24 **TO ASSIST PUBLIC CHARTER SCHOOLS WITH FINANCING;**

25 **(II) SECURITY FOR BONDS ISSUED ON BEHALF OF A PUBLIC**
26 **CHARTER SCHOOL BY THE MARYLAND HEALTH AND HIGHER EDUCATIONAL**
27 **FACILITIES AUTHORITY OR A COUNTY GOVERNMENT; AND**

28 **(III) ASSISTANCE TO PUBLIC CHARTER SCHOOLS IN**
29 **OBTAINING BOND FINANCING ON FAVORABLE TERMS BY SPECIFYING A SOURCE**
30 **OF MONEY THAT CAN BE USED TO MAKE DEBT SERVICE PAYMENTS IF THE**
31 **PUBLIC CHARTER SCHOOL FAILS TO MAKE THE REQUIRED DEBT SERVICE**
32 **PAYMENTS.**

33 **(C) THE STATE BOARD SHALL ADMINISTER THE FUND.**

1 **(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
2 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

3 **(2) THE STATE TREASURER SHALL HOLD THE FUND**
4 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

5 **(E) THE FUND CONSISTS OF:**

6 **(1) FEDERAL FUNDS OBTAINED BY THE STATE FOR FUNDING**
7 **PUBLIC CHARTER SCHOOL FACILITIES;**

8 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

9 **(3) INVESTMENT EARNINGS OF THE FUND; AND**

10 **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**
11 **FOR THE BENEFIT OF THE FUND.**

12 **(F) (1) THE FUND MAY BE USED ONLY TO:**

13 **(I) PROVIDE LEVERAGE TO ENCOURAGE THE FINANCING**
14 **OF PUBLIC CHARTER SCHOOL FACILITIES;**

15 **(II) SERVE AS SECURITY FOR BONDS ISSUED ON BEHALF OF**
16 **A PUBLIC CHARTER SCHOOL BY THE MARYLAND HEALTH AND HIGHER**
17 **EDUCATIONAL FACILITIES AUTHORITY OR A COUNTY GOVERNMENT; AND**

18 **(III) SERVE AS A DEBT SERVICE GUARANTEE FOR BONDS**
19 **ISSUED ON BEHALF OF A PUBLIC CHARTER SCHOOL.**

20 **(2) THE STATE BOARD SHALL DIRECT THE STATE TREASURER**
21 **TO EXPEND MONEY IN THE FUND FOR THE PURPOSE OF PAYING THE PRINCIPAL**
22 **AND INTEREST ON THE BONDS ISSUED ON BEHALF OF A PUBLIC CHARTER**
23 **SCHOOL IF:**

24 **(I) BONDS ARE ISSUED ON BEHALF OF A PUBLIC CHARTER**
25 **SCHOOL;**

26 **(II) THE SCHOOL FAILS TO MAKE THE DEBT SERVICE**
27 **PAYMENTS; AND**

1 **(III) THE FUND HAS A SUFFICIENT BALANCE TO COVER THE**
2 **DEBT SERVICE PAYMENT AND ANY OTHER PAYMENTS OR GUARANTEES THAT**
3 **THE FUND IS COMMITTED TO PAY.**

4 **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
5 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

6 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**
7 **CREDITED TO THE FUND.**

8 **(H) THE STATE BOARD SHALL ADOPT REGULATIONS TO IMPLEMENT**
9 **THIS SECTION.**

10 **(I) (1) ANY SECURITY OR DEBT SERVICE PAYMENTS PROVIDED**
11 **UNDER THIS SECTION DO NOT CREATE OR CONSTITUTE ANY INDEBTEDNESS OR**
12 **OBLIGATION OF THE STATE OR ANY POLITICAL SUBDIVISION OF THE STATE.**

13 **(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO**
14 **REQUIRE THE STATE TO MAKE ANY DEBT SERVICE PAYMENTS ON BEHALF OF A**
15 **PUBLIC CHARTER SCHOOL FROM ANY SOURCE OF MONEY OTHER THAN THE**
16 **PUBLIC CHARTER SCHOOL FACILITIES DEBT RESERVE FUND.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the State Department of
18 Education is requested to examine the feasibility of and the mechanism for providing
19 per-pupil facilities aid for public charter schools in Maryland. The Department is
20 requested to report its findings and recommendations to the Governor and, subject to §
21 2-1246 of the State Government Article, the General Assembly by June 1, 2011.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.